UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,449	07/01/2003	Tong Zhang	100202720-1	1631

22879   7590   11/15/2007

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
SAUNDERS JR, JOSEPH

ART UNIT	PAPER NUMBER
2615	

MAIL DATE	DELIVERY MODE
11/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/611,449	ZHANG ET AL.
	Examiner	**Art Unit**	
	Joseph Saunders	2615	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *14 August 2007*.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-17 and 39-62* is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) *3* is/are allowed.

6) ☒ Claim(s) *1,2,4-17 and 39-62* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *01 July 2003* is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a) ☐ All b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This office action is in response to the communication filed August 14, 2007.

Claims 1 – 17 and 39 – 62 are currently pending and considered below.

Drawings

2.   The drawings are objected to because in figure 8 the block "152" labeled "Audio

Piece 2" should be correctly labeled "Audio Piece 1". Corrected drawing sheets in

compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

abandonment of the application. Any amended replacement drawing sheet should

include all of the figures appearing on the immediate prior version of the sheet, even if

only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as "amended." If a drawing figure is to be canceled, the

appropriate figure must be removed from the replacement sheet, and where necessary,

the remaining figures must be renumbered and appropriate changes made to the brief

description of the several views of the drawings for consistency. Additional replacement

sheets may be necessary to show the renumbering of the remaining figures. Each

drawing sheet submitted after the filing date of an application must be labeled in the top

margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

the changes are not accepted by the examiner, the applicant will be notified and

informed of any required corrective action in the next Office action. The objection to the

drawings will not be held in abeyance.

Specification

3.   The disclosure is objected to because of the following informalities: On page 5

line 21 reference number "126" should be deleted since reference number "126" refers

to the "original audio file" of figure 5. On page 13 lines 8 and 9, "audio piece 82" should

be corrected to "audio piece 152".

Appropriate correction is required.

Claim Objections

4.   Claim 60 is objected to under 37 CFR 1.75 as being a substantial duplicate of

claim 40. When two claims in an application are duplicates or else are so close in

content that they both cover the same thing, despite a slight difference in wording, it is

proper after allowing one claim to object to the other as being a substantial duplicate of

the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

6.   Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. Claim 4 discloses that each Gabor function has a center

frequency substantially corresponding to a center pitch of an adjacent audio summary

however claim 3 states that the transition audio summaries are identical and therefore if

the center frequency is determined by an adjacent audio summary and there is more

than three audio summaries, the transition audio summaries cannot be identical. See

the last paragraph on page 12 and especially the description on page 13 of the

specification. Appropriate clarification and correction is required.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8.   Claims 1, 2, 5, 6, 9 – 12, 17, 40, 41, 45 – 48, 55, and 58 – 62 are rejected under

35 U.S.C. 102(b) as being anticipated by Kulas (US 6,044,047), hereinafter Kulas.

Claim 1: Kulas discloses an audio processing method, comprising: identifying audio

summaries ("samples") of respective audio pieces (CD's), wherein each of the audio

summaries comprises digital content summarizing at least a portion of the respective

audio piece ("player stores samples of a portion of each of the CD's" and "the stored

portions are played back quickly so that a user can select which CD to play based on

the playback portions," Abstract); determining transition audio segments each

comprising a form of audio content that is different from the audio summaries and

distinguishes the transition audio segment from the audio summaries; concatenating the

audio summaries and the transition audio segments into a sequence in which at least

one transition audio segment is between ones of the audio summaries; and rendering

the sequence (column 5 lines 52 – 65).

Claim 17: Claim 17 is substantially similar in scope to claim 1 and is rejected on the

same grounds.

Claim 2: <u>Kulas</u> discloses the method of claim 1, wherein identical transition audio

segments ("tone") are rendered between pairs of sequential audio summaries (column 5

lines 52 – 65).

Claim 5: <u>Kulas</u> discloses the method of claim 1, wherein the audio summaries and the

interleaved transition audio segments are rendered consecutively (column 5 lines 52 –

65).

Claim 6: <u>Kulas</u> discloses the method of claim 1, wherein each audio summary is a

representative segment of a respective associated audio piece ("player stores samples

of a portion of each of the CD's" and "the stored portions are played back quickly so that

a user can select which CD to play based on the playback portions," Abstract).

Claim 9: <u>Kulas</u> discloses the method of claim 1, wherein at least one audio summary is

linked to an associated audio piece by a browsable link (column 6 lines 12 – 27).

Claim 10: <u>Kulas</u> discloses the method of claim 9, further comprising rendering a given one of the audio pieces linked by a browsable link to an associated one of the audio summaries in response to user input received during rendering of the associated audio summary, wherein the rendering comprises following the browsable link from the associated audio summary to the given audio piece before rendering a successive one of the transition audio segments (column 6 lines 12 – 27).

Claim 11: <u>Kulas</u> discloses the method of claim 1, further comprising rendering a given audio piece beginning at a location in the given audio piece linked by a browsable link to an audio summary associated with the given audio piece, wherein the rendering comprises following the browsable link from the associated audio summary to the given audio piece (column 6 lines 12 – 27).

Claim 12: <u>Kulas</u> discloses the method of claim 11, further comprising rendering a second audio piece at a location in the second audio piece linked to a successive audio summary associated with the second audio piece (Each CD has an associated sample and therefore the system can render a second audio piece or CD at a location in the second audio piece linked to a successive audio summary or sample associated with the second audio piece, column 6 lines 12 – 27).

Claim 40: <u>Kulas</u> discloses the method of claim 1, wherein each of the transition audio segments corresponds to a monotone sound ("tone", column 5 lines 52 – 53).

Claim 60: <u>Kulas</u> discloses the method of claim 1, wherein each transition audio

segment corresponds to a monotone sound ("tone", column 5 lines 52 – 53).

Claim 41: <u>Kulas</u> discloses the method of claim 1, wherein the rendering comprises

rendering the audio summaries and the transition audio segments consecutively without

any gaps between the audio summaries and the transition audio segments ("a brief gap

may be adequate", implying that when the "tone" is used no "gaps" occur between the

audio summaries and the transition audio segments, column 5 lines 52 – 65).

Claim 55: Claim 55 is substantially similar to claim 41 and is rejected on the same

grounds.

Claim 45: <u>Kulas</u> discloses the method of claim 1, wherein at least one of the audio

summaries is associated with a pointer ("flag") to a location in a respective one of the

audio pieces (column 3 lines 27 – 40 and column 6 lines 12 – 27).

Claim 46: <u>Kulas</u> discloses the method of claim 1, further comprising following a pointer

("flag") from a given audio summary being rendered to a location in an associated audio

piece specified by the pointer, and rendering the associated audio piece beginning at

the specified location (column 3 lines 27 – 40 and column 6 lines 12 – 27).

Claim 47: <u>Kulas</u> discloses the method of claim 46, further comprising terminating the rendering of the associated audio piece and resuming the sequential rendering of the audio summaries and the transition audio segments ("The SCAN control allows a user to initiate the quick-scan of the present invention," column 5 lines 7 – 17, thereby "terminating" the current operating mode or the rendering of audio pieces).

Claims 58 and 59: Claims 58 and 59 are substantially similar in scope to claims 46 and 47 and are rejected on the same grounds.

Claim 48: <u>Kulas</u> discloses the method of claim 47, wherein the terminating is initiated in response to user input ("SCAN" button, column 5 lines 7 – 17).

Claim 61: <u>Kulas</u> discloses the method of claim 1, wherein the rendering comprises rendering only one transition audio segment between each sequential pair of the audio summaries (column 5 lines 52 – 65).

Claim 62: <u>Kulas</u> discloses the method of claim 1, wherein the identifying comprises identifying the audio summaries of the audio pieces based on links ("flags") between the audio pieces and respective ones of the audio summaries (column 3 lines 27 – 40 and column 6 lines 12 – 27).

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   Claims 1, 7, 8, 13 – 15, 17, 43, 44, 50 – 54, 56, and 57 are rejected under 35

U.S.C. 103(a) as being unpatentable over Csicsatka et al. (US 2006/0235550 A1),

hereinafter Csicsatka, in view of Kulas.

11.   US 2006/0235550 A1 to Csicsatka et al. is prior art under 35 USC 102(e) with

respect to this application due to its continuity through international application WO

2004/097832 A2 which published in English and designates the United States and has

an effective filing date of 24 April 2003 due to its priority to US Provisional Application

60/465,156 for any matter disclosed in that provisional application. Copies of the

published international application and the US provisional application have been

provided in the previous Office action. Text references below are made with respect to

the provisional application.

Claim 1: Csicsatka discloses an audio processing method (Method of Creating Playlists

using Audio Clips), comprising: identifying audio summaries ("Audio Clips") of

respective audio pieces ("songs"), wherein each of the audio summaries comprises

digital content summarizing at least a portion of the respective audio piece ("Audio Clips

can be used to identify content without having to play the entire selection or look at a

display," page 1 sixth paragraph). Csicsatka further discloses that "Audio Clips from the

songs from the album start to play in album order," page 1 example 1. While the Audio

Clip is playing a press of the Favorites Key will add it to the playlist. Once it has been

added the player advances to the next song," page 1 example 1. Therefore, Csicsatka

anticipates all elements of claim 1 except that Csicsatka is silent as to any transitional

audio segments and therefore does not disclose determining transition audio segments

each comprising a form of audio content that is different from the audio summaries and

distinguishes the transition audio segment from the audio summaries and concatenating

the audio summaries and the transition audio segments into a sequence in which at

least one transition audio segment is between ones of the audio summaries. Kulas

discloses a similar method of using a short sample of an audio piece to quickly identify

the audio piece and further discloses,

> "A preferred embodiment of the present invention uses tone generator 154,
>
> shown in FIG. 2. Tone generator 154 outputs a tone to audio amplifier 114. The
>
> tone is used to indicate the end of a sample during sample playback mode and to
>
> indicate the start of a next sample. The use of tone generator 154 is optional as a
>
> brief gap in playback may be adequate to indicate that a new sample is starting.
>
> Alternatively, a "click" or other audible indication can be used, or no indication at
>
> all. Another possibility is to use voice synthesis to announce the slot number of
>
> the CD sample being played overlayed with the playback of the sample during

the scan mode. Other ways of the beginning and end of samples, and which

sample is playing, are possible," column 5 lines 52 – 65.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention to apply the transition audio segments taught by Kulas in the playlist creation

function taught by Csicsatka, since the transitional audio segments are used "indicate

the end of a sample during playback mode and to indicate the start of a next sample,"

Kulas column 5 lines 52 – 65, thereby allowing the user do distinguish when one sample

ends and the other begins.

Claim 17: Claim 17 is substantially similar to claim 1 and is rejected on the same

grounds.

Claim 7: Csicsatka discloses the method of claim 1, further comprising classifying audio

pieces into categories in response to user input received during rendering of the

associated audio summaries ("Favorites Key" and "numeric keypad", page 1 example 1

and page 2 first paragraph).

Claim 8: Csicsatka discloses the method of claim 7, further comprising building a

playlist based on categories assigned to a set of audio pieces ("selected audio track can

be placed in one of a plurality of playlists," page 2 first paragraph).

Claims 50 and 51: Claims 50 and 51 are substantially similar in scope to claims 7 and 8 and are rejected on the same grounds.

Claim 43: Csicsatka discloses the method of claim 1, further comprising receiving one or more user-specified categories for respective ones of the audio summaries while the audio summaries and the transition audio segments are being rendered ("Favorites Key" and "numeric keypad", page 1 example 1 and page 2 first paragraph).

Claim 44: Csicsatka discloses the method of claim 43, further comprising building one or more playlists based on the one or more user-specified categories ("selected audio track can be placed in one of a plurality of playlists," page 2 first paragraph).

Claims 56 and 57: Claims 56 and 57 are substantially similar in scope to claims 43 and 44 and are rejected on the same grounds.

Claim 13: Csicsatka discloses an audio processing method (Method of Creating Playlists using Audio Clips), comprising: sequentially rendering audio summaries ("Audio Clips") wherein each audio summary comprises digital content summarizing at least a portion of ("Audio Clips can be used to identify content without having to play the entire selection or look at a display," page 1 sixth paragraph) a respective associated audio piece ("songs"). Csicsatka further discloses that "Audio Clips from the songs from the album start to play in album order," page 1 example 1. Csicsatka also discloses

ordering audio summaries in a sequence based on similarity to a given audio summary

(Using "Artist, Genre or Year, Audio Clips from that group start to play", page 1 example

2. Therefore, Csicsatka anticipates all elements of claim 1 except that Csicsatka is silent

as to any transitional audio segments and therefore does not disclose determining

transition audio segments each comprising a form of audio content that is different from

the audio summaries and distinguishes the transition audio segment from the audio

summaries and concatenating the audio summaries and the transition audio segments

into a sequence in which at least one transition audio segment is between ones of the

audio summaries. Kulas discloses a similar method of using a short sample of an audio

piece to quickly identify the audio piece and further discloses,

> "A preferred embodiment of the present invention uses tone generator 154,
>
> shown in FIG. 2. Tone generator 154 outputs a tone to audio amplifier 114. The
>
> tone is used to indicate the end of a sample during sample playback mode and to
>
> indicate the start of a next sample. The use of tone generator 154 is optional as a
>
> brief gap in playback may be adequate to indicate that a new sample is starting.
>
> Alternatively, a "click" or other audible indication can be used, or no indication at
>
> all. Another possibility is to use voice synthesis to announce the slot number of
>
> the CD sample being played overlayed with the playback of the sample during
>
> the scan mode. Other ways of the beginning and end of samples, and which
>
> sample is playing, are possible," column 5 lines 52 – 65.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention to apply the transition audio segments taught by Kulas in the playlist creation

function taught by Csicsatka, since the transitional audio segments are used "indicate

the end of a sample during playback mode and to indicate the start of a next sample,"

Kulas column 5 lines 52 – 65, thereby allowing the user do distinguish when one sample

ends and the other begins.

Claim 14: Csicsatka and Kulas disclose the method of claim 13, and Csicsatka further

disclose wherein audio summaries are rendered in accordance with the ordered

sequence ("the player advances to the next song in that group," page 1 example 2).

Claims 52 and 53: Claims 52 and 53 are substantially similar in scope to claims 13 and

14 and are rejected on the same grounds.

Claim 15: Csicsatka discloses an audio processing method (Method of Creating

Playlists using Audio Clips), comprising: sequentially rendering audio summaries

("Audio Clips"), wherein each audio summary comprises digital content summarizing at

least a portion of ("Audio Clips can be used to identify content without having to play the

entire selection or look at a display," page 1 sixth paragraph) a respective associated

audio piece ("Album"), wherein each audio piece ("Album") is associated with multiple

audio summaries (Audio Clips for each song on the album) and a single audio summary

is rendered automatically for each audio piece; and rendering an audio summary for a

given audio piece in response to user input received during rendering of a preceding

audio summary associated with the given audio piece (Csicsatka further discloses that

"Audio Clips from the songs from the album start to play in album order," page 1

example 1). Therefore, Csicsatka anticipates all elements of claim 1 except that

Csicsatka is silent as to any transitional audio segments and therefore does not disclose

determining transition audio segments each comprising a form of audio content that is

different from the audio summaries and distinguishes the transition audio segment from

the audio summaries and concatenating the audio summaries and the transition audio

segments into a sequence in which at least one transition audio segment is between

ones of the audio summaries. Kulas discloses a similar method of using a short sample

of an audio piece to quickly identify the audio piece and further discloses,

> "A preferred embodiment of the present invention uses tone generator 154,
>
> shown in FIG. 2. Tone generator 154 outputs a tone to audio amplifier 114. The
>
> tone is used to indicate the end of a sample during sample playback mode and to
>
> indicate the start of a next sample. The use of tone generator 154 is optional as a
>
> brief gap in playback may be adequate to indicate that a new sample is starting.
>
> Alternatively, a "click" or other audible indication can be used, or no indication at
>
> all. Another possibility is to use voice synthesis to announce the slot number of
>
> the CD sample being played overlayed with the playback of the sample during
>
> the scan mode. Other ways of the beginning and end of samples, and which
>
> sample is playing, are possible," column 5 lines 52 – 65.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention to apply the transition audio segments taught by Kulas in the playlist creation

function taught by Csicsatka, since the transitional audio segments are used "indicate

the end of a sample during playback mode and to indicate the start of a next sample,"

Kulas column 5 lines 52 – 65, thereby allowing the user do distinguish when one sample

ends and the other begins.

Claim 54: Claim 54 is substantially similar in scope to claim 15 and is rejected on the

same grounds.

12.   Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kulas in

view of Takenaka et al. (US 6,807,450 B1), hereinafter Takenaka.

Claim 16: Kulas discloses the method of claim 1, but does not disclose normalizing

audio summaries to a common loudness level. Takenaka discloses a digital audio

reproduction method (Fig. 5E; column 12, lines 11 – 29) that provides transition audio

segments between the information pieces (i.e., music items). Takenaka further

discloses that such an arrangement provides a natural linkage between songs,

enhancing listener enjoyment (column 12, lines 42 – 45) and further discloses

reproduction at a constant level (i.e., normalizing to a common loudness level) (Fig 5E;

column 12, lines 30 – 36). Therefore, it would have been obvious to one skilled in the art

at the time of the invention to reproduce the audio summaries of Kulas at a constant or

normalized level as disclosed by Takenaka for the purpose of realizing the aforesaid

advantages and also preventing sudden disruptive volume changes between audio

summaries of different sources that may have been recorded at different levels.

13.   Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over <u>Kulas</u> in

view of Setogawa et al. (US 6,424,793 B1), hereinafter <u>Setogawa</u>.

Claim 49: <u>Kulas</u> discloses the method of claim 47, but does not disclose wherein the

terminating is initiated in response to completion of the rendering of the associated

audio piece.

<u>Setogawa</u> discloses a replay apparatus that returns to a selection function upon

termination of a tune replay (Fig. 18, steps S103 - S104; column 19, lines 1 – 19).

<u>Setogawa</u> further discloses that such an arrangement provides improved ease of

operation (column 20, lines 48-56). It would have been obvious to one skilled in the art

at the time of the invention to apply return to selection function as taught by <u>Setogawa</u>

to the invention of <u>Kulas</u> for the purpose of realizing the aforesaid advantage.

14.   Claims 39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable

over <u>Kulas</u> in view of <u>Csicsatka</u>.

Claim 39: <u>Kulas</u> discloses the method of claim 1, but does not disclose following links

between multiple ones of the audio summaries and one of the audio pieces. <u>Csicsatka</u>

discloses a similar audio processing method (Method of Creating Playlists using Audio

Clips), comprising: identifying audio summaries ("Audio Clips") of respective audio

pieces ("songs"), wherein each of the audio summaries comprises digital content

summarizing at least a portion of the respective audio piece ("Audio Clips can be used

to identify content without having to play the entire selection or look at a display," page 1

sixth paragraph). Csicsatka further discloses that "Audio Clips from the songs from the

album start to play in album order. While the Audio Clip is playing a press of the

Favorites Key will add it to the playlist. Once it has been added the player advances to

the next song," page 1 example 1. Therefore, it would have been obvious to one of

ordinary skill in the art at the time of the invention to use links as taught by Csicsatka

between multiple audio summaries (songs) and an audio piece (CD) in the invention of

Kulas thereby allowing not only the CD to be identified easily but also the individual

songs on the CD.

Claim 42: Kulas discloses the method of claim 1, further comprising, in response to

user input during rendering of a current one of the audio summaries that comprises

digital content summarizing at least a portion of a given one of the audio pieces. Kulas

does not disclose rendering another audio summary in a hierarchical cluster of audio

summaries each of which comprises digital content summarizing at least a portion of the

given audio piece, wherein the hierarchical cluster includes including the current audio

summary. Csicsatka discloses a similar audio processing method (Method of Creating

Playlists using Audio Clips), comprising: identifying audio summaries ("Audio Clips") of

respective audio pieces ("songs"), wherein each of the audio summaries comprises

digital content summarizing at least a portion of the respective audio piece ("Audio Clips

can be used to identify content without having to play the entire selection or look at a

display," page 1 sixth paragraph). <u>Csicsatka</u> also discloses ordering audio summaries in a sequence based on similarity to a given audio summary (Using "Artist, Genre or Year, Audio Clips from that group start to play" and "the player advances to the next song in that group," page 1 example 2). Therefore, it would have been obvious to one of ordinary skill in the art a the time of the invention to playback the audio summaries based on a "hierarchical cluster" or "group" as disclosed by <u>Csicsatka</u> in the system of <u>Kulas</u> thereby allowing for user customized playback based on Artist, Genre, Year, of a group (<u>Csicsatka</u>, page 1 example 2).

Allowable Subject Matter

15.   Claim 3 is allowable matter for the reasons stated in the office action dated December 8, 2006.

16.   Claim 4 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

17.   The indicated allowability of claims 13 – 15 and 52 – 54 is withdrawn in view of the newly discovered reference(s) to <u>Kulas</u> and reconsideration of <u>Csicsatka</u> as presented above.

Response to Arguments

18.   Applicant's arguments with respect to claims 1, 2, 5 – 12, 16, 17, 39 – 51, and 55 – 59 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

19.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Saunders whose telephone number is (571) 270-1063. The examiner can normally be reached on Monday - Thursday, 9:00 a.m. - 4:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS
November 7, 2007

SINH TRAN
SUPERVISORY PATENT EXAMINER